

*KIRTON LAW FIRM*

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*Marlon G. Kirton, Esq.*

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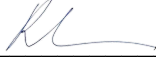
April 6, 2023

VIA ELECTRONIC FILING

Hon. Ronnie Abrams  
United States District Court Judge  
Southern District of New York  
40 Foley Square  
New York, NY 10007

At the recommendation of the Probation  
Department, this application is granted.

SO ORDERED.

  
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Ronnie Abrams, U.S.D.J.  
April 18, 2023

**Re: *United States v. Neil Lizardi 15 CR 334 (RA)***

Dear Judge Abrams:

I write regarding my client Richard Forman, to request early termination of supervised release, pursuant to 18 U.S.C. § 3583(e).

**BACKGROUND**

1. On September 12, 2016, this Honorable Court sentenced Mr. Forman to 72 months of imprisonment and five years of supervised release after Mr. Forman pleaded guilty in this drug conspiracy/gun possession case.

2. Of the 72-month term, Mr. Forman served approximately five years, whereupon he was released from that term on March 7, 2020, and he's been on supervised release ever since.

3. Mr. Forman's supervised release expires on March 6, 2025. Mr. Forman has served approximately two years and nine months, or more than half of his five-year term.

4. Mr. Forman hasn't committed a violation, infraction, or incident during such time.

Mr. Forman has remained gainfully employed.

5. Mr. Forman is 54 years of age and is a husband, father, and son. He resides in Stamford, Connecticut, with his wife (common law) and two young children, 13 and 5 years of age, and also supports his daughter-in-law, although she no longer resides in their home.

6. Mr. Forman is the head of the household. While his wife is employed in the customer care department at a local supermarket, it is his income that the family relies upon. In fact, not only does his immediate family depend on his income, but so does his ailing mother, who unfortunately has dementia. Indeed, between breaks and after work, Mr. Forman makes it his business to call or visit his ailing mother at least twice a week, if not every other day.

7. For work, Mr. Forman is a security guard. In fact, before Mr. Forman's arrest, he was a licensed security guard.

8. Mr. Forman has excelled in this line of work and has garnered a stream of support from his employers and colleagues, all supportive of his professional endeavors. See attachments.

9. Currently, Mr. Forman is not licensed, as his supervised release status prevents him from obtaining such licensing and further limits his schedule and any contracts he could obtain as a licensed security guard. In addition to impeding his professional advancement, being an unlicensed security guard caps his salary. Currently, Mr. Forman generates a modest annual salary of \$40,000.00. However, with the license, he would immediately elevate into the \$60,000 - \$70,000.00 range.

10. On this moderate \$40,000.00 salary, Mr. Forman has to support not only his immediate household but also his ailing mother and daughter-in-law. His wife makes approximately \$280 per week.

11. If terminated from supervised release, Mr. Forman could obtain his security guard license and move forward with his career.

12. The probation Department is aware of Mr. Forman's progress; because two months after his release, he was placed on the lowest form of supervision, Kiosk Reporting.

13. While Mr. Forman reports periodically to the automated reporting, he is under the supervision of USPO Lisa Sambeck.

14. I have reached out to Ms. Sambeck and the Government concerning this matter we have not heard from her regarding her position.

#### **STATUTORY AND CASE LAW BASIS FOR THIS REQUEST**

15. Title 18, Section 3583(e)(1) of the United States Code states that, after considering several factors expressed in 18 U.S.C. § 3553(a)<sup>1</sup>, "the Court may terminate a term of supervised release and discharge the defendant after serving one year of supervision if it is warranted by the conduct of the defendant and it is in the "interest of justice." *U.S. v. Filocomo*, 2022 WL 118735 (E.D.N.Y. 2022); See also, *United States v. Trotter*, 321 F.Supp.3d 337, 359 (E.D.N.Y. 2018)

16. Indeed, it is the sole discretion of this Court to grant early termination of supervised probation (*U.S. v. Lussier*, 104 F.3d 32, 36 (2d Cir.1997)), and as such, the statute "on its face authorizes the court to modify conditions of supervised release only when general punishment goals would be better served by modification." *Id.* at 35; See also, *U.S. v. Kappes*, 782 F.3d 828 (7th Cir. 2015), accord., *Johnson v. United States*, 529 U.S. 694, 709 (2000).

17. Early discharge or another form of modification is appropriate to "account for

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1. Specifically, the Court is to consider (a)(1), (a)(2)(B), (a)(2)(C), (a)(2)(D), (a)(3), (a)(4), (a)(5), (a)(6), and (a)(7).

new or unforeseen circumstances” not contemplated at the initial imposition of supervised release. *U.S. v. Lussier*, 104 F.3d at 36.

18. Only “occasionally” is it warranted due to the changed circumstances of a defendant, such as his exceptionally good behavior, which make the previously imposed term of supervised release “either too harsh or inappropriately tailored to serve” general punishment goals. *Id.*

19. Although the oft-used “exceptional conduct” and “changed circumstances” were articulated by the Second Circuit in *Lussier*, this Court explained that the *Lussier* Court “cannot be read to mandate additional requirements for termination or modification. *U.S. v. Trotter*, 321 F.Supp.3d 337, 360 (E.D.N.Y. 2018).

20. As evinced in the Monograph 109<sup>2</sup> and in the Sentencing Guidelines Manual in § 5D1.2, the policy concerns for ex-offenders on supervised probation is to encourage early terminations whenever appropriate. *cf. U.S. v. Parisi*, 821 F.3d 343, 348 (2nd Cir. 2016)

21. The HONORABLE District Court, JUDGE JACK B. WEINSTEIN, in *U.S. v. Trotter*, explained, “[t]he current reflexive use of longer than needed supervised release periods may increase the likelihood of recidivism. Not only is there no increase in recidivism rates when low-risk people are not supervised, requiring low-risk people to participate in the treatment and other programs common to post-prison supervision can actually increase the likelihood that they will reoffend. While it is not clear exactly why this occurs, possible reasons include the fact that supervising low-risk people and placing them in programs can disrupt their pro-social networks, as well as the fact the increased supervision and the associate conditions increase the likelihood

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<sup>2</sup> Supervision of Federal Offenders. Guide to Judiciary Policy, Vol. 8E, Ch.3 at 28-30

of violations.” 321 F.Supp.3d at 362.

22. Here, Mr. Forman meets all the criteria mentioned above to avail him of the benefit of early termination.

23. In addition to serving more than half of his five-year term of supervised release, the change of circumstance is that his supervised release directly hinders his ability to secure a security guard license, thus preventing him from advancing in his career as a licensed security guard.

24. Early termination would provide a qualified candidate to excel in a manner that benefits not only Mr. Forman and his family but also Justice.

### **CONCLUSION**

Based on Mr. Forman's changed circumstances since his sentence and two years and nine months of exemplary behavior on supervised release, I submit that. He respectfully meets the required standards for early termination, in addition to Mr. Forman's professional and personal development since his release.

The interests of Justice and the efficiency of probation would be better served with the termination of Mr. Forman's supervised release.

Respectfully,

*Marlon Kirton*  
Marlon G. Kirton, Esq.  
THE KIRTON LAW FIRM  
175 Fulton Avenue, Suite 305  
Hempstead, New York 11550  
(516) 833-5617

cc: A.U.S.A. Robert W. Allen (via email)  
U.S.P.O. Lisa Sambeck (via regular mail)

8/23/22

To Whom It May Concern

My name is Latasha Holder, and I am 41 years old. I am the youngest sister of Richard Forman. For the past 21 years, I have worked as a teacher with the Board of Education. This letter is intended to be filled as his support letter.

Despite my brother's history of significant transgressions, I believe whole heartedly that Richard has matured and will be a productive and law-abiding citizen upon his complete release from parole for the following reasons:

1. Richard has found work and has worked consistently since being released. He has made an honest living in these times.
2. Richard has played a very important role as a father to his sons who he couldn't provide for while incarcerated, but now has done so since his release.
3. Richard has not been in any trouble what so ever since being released.
4. Richard has understood the true meaning of rebuilding, living, and making the best of what he has and not what he simply wants.
5. Richard finds happiness and gratification from mainly being around his immediate family vs finding gratification from the streets and hanging out with the wrong crowds. Family BBQ's, game nights, talking on the phone, and birthday celebrations are just a few of the things Richard finds himself being a part of these days.

I am delighted to announce that Richard will continue to be well-supported by myself and family as he continues down his journey of having and keeping his freedom. If he is given complete release with no restrictions, I believe Richard can be an even better individual for not only himself but loved ones around him. The current restrictions that still are present in Richard's life are holding him back from exploring his new found life in various ways. I believe that if Richard is given his complete freedom, he will excel to new found heights.

Finally, I'd like to emphasize that I believe that Richard. Has changed and is ready for another chance at complete and unrestricted freedom in society. His commitment to personal development has been evident to our family, and we hope you can see the tremendous adjustments he has made throughout his time of incarceration up until now.

Please contact mee at [REDACTED] or [REDACTED] if you have any questions. Thank you for your consideration of this letter.

Sincerely,  
Latasha Holder





Marlon Kirton &lt;kirtonlawfirm@gmail.com&gt;

**Fwd: r forman**

1 message

**Caroline Rivera**

Mon, Sep 5, 2022 at 11:33 PM

To: Marlon Kirton &lt;kirtonlawfirm@gmail.com&gt;, Marlon Kirton &lt;marlongkirtonpc@optimum.net&gt;

----- Forwarded message -----

From: **Richard Forman**

Date: Sun, Sep 4, 2022, 10:34 PM

Subject: r forman

To: &lt;

Dear Honorable Ronnie Abram

Good day , where do I start so much to say but I will get straight to the point . Richard Forman ,my better half has been a true definition of a Man that proves there is life after incarceration. While many fall into stagnation due to not being able to kick start their career because of their record, Richard was able to get a job doing Security in a Senior residence where they love him. Everyday the senior residents give him all types of gifts of appreciation. I constantly hear how safe they feel when he is there.

When we were in that courtroom 2016 and Richard was sentenced you told him when he was released to continue to follow on that path he was on with his Security and his goals. Richard did just that and more. He has always been an amazing Dad. Even through his incarceration (maybe you may remember I was pregnant with our son who is now 7 years old.) he maintains a strong relationship with his Sons ,daughter and Granddaughter.. Needless to say, Richard and I have been together for 20 years We are praying for Richard to get an early termination of Probation so that he is able to obtain his Security License and further his Security career.

Thankyou for taking the time and reading our letters of Support and hopefully considering Early Termination. May God Bless you and your family always  
Sincerely Caroline

9/2/22

To whom it may concern:

My name is Dayshaun Forman and I am the nephew of Richard Forman. I spoke to my uncle Richard years ago, the day before he was arrested. My uncle knew he was going to get arrested because his friends that were involved with the same crime were arrested days before him. I am writing this letter because from that very moment my uncle had a ton of resentment in his voice during our phone call. He knew he was about to lose everything he had worked for since his last release from prison. He went from unemployment to keeping a well paying active job for over 7 years. My uncle took pride in his job and went to work more than an hour early everyday. Unfortunately, negative influences got to him. I attended my uncles court date and was there when he was sentenced to 5 years. The crime and the time wasn't the part that was hurtful, it was losing his family and everything he built that was hurtful to him. During his time in prison, my uncle had to listen and stand by as my aunt (his wife) and cousins struggled because he was not there to provide for them. He vowed to get released and reestablish his role as a father in his family's life. I was there the day my uncle was released from prison, and since then he has dedicated everyday to improving himself and helping his family. One can even argue that he has been too hard on himself since being released. My uncle wants the best for his family and wakes up every morning trying to obtain the life he had before he was arrested. A life of a well paying 9-5 job with great benefits. Today my uncle has a job that he enjoys. He still attends his job about an hour before his shift everyday as well. Richard has managed to start a vending machine company on his own. My uncle is on a great path and intends to stay on it. Since his release he has stopped communicating with the friends that got him incarcerated. Every time I visit his old Harlem neighborhood (the neighborhood he has been arrested numerous times in) people ask "how is your uncle?", "why he never calls anyone?", "how come he never visits?". I can honestly say my uncle has moved on from that life. He constantly calls me and mentions how bored he is at home, that's because he chooses to stay home with his family instead of hanging out. The Forman family is proud of Richard and will continue to support him and be a positive influence for him. Please consider him for an early probation release. If more information is needed please call me.

Sincerely,

Dayshaun Forman





Marlon Kirton &lt;kirtonlawfirm@gmail.com&gt;

**Fwd: Character Witness Letter**

3 messages

**Caroline Rivera** <[REDACTED]>  
To: Marlon Kirton <kirtonlawfirm@gmail.com>

Fri, Sep 2, 2022 at 10:42 AM

----- Forwarded message -----

From: **Richard Forman** <[REDACTED]>  
Date: Fri, Sep 2, 2022, 10:41 AM  
Subject: Fwd: Character Witness Letter  
To: <carolforman68@gmail.com>

----- Forwarded message -----

From: **Tyneke Holder** <[REDACTED]>  
Date: Sun, Aug 28, 2022, 9:51 PM  
Subject: Character Witness Letter  
To: <[REDACTED]>

Dear Sir / Madam,

First of all my cordial greeting. I am here at this moment writing in reference to Richard Forman who is my brother. I sincerely feel very concerned about the well-being and future of my brother and my intention is to try to make them understand my point of view and that of many people who love him. Although it seems hard to believe or understand, my brother Richard Forman is a good person and has always had morality in his actions. I have had the happiness of being his little sister and that is why I can assure you that even though he has had his ups and downs in life, I and many of his friends and family are convinced that Richard is a human being with a great heart and a decent person.

I'm sure that he only needs more people around him who believe in him to better develop his self-esteem and self-confidence and be able to return to being that amazing person that I've always known. Certainly he has made some mistakes, of which I am convinced that he is very sorry for having committed, for which he will be fully prepared to repair, as best he can, all the damages that his actions may have been caused around him. But this will only be possible if this justice system and all of us give a new opportunity to him because we recognize that he could have broken the law. I am sure that you know the power that the decision that you can take on the life of my brother and can take a wise disposition.

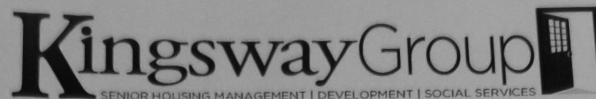
Thank you,

Tyneke Holder

Sent from Yahoo for iPhone

**Marlon Kirton** <kirtonlawfirm@gmail.com>  
To: Chamma Brandon <[REDACTED]>

Fri, Oct 7, 2022 at 11:15 AM



152 Westport Avenue | Norwalk, CT 06851  
Phone: (203) 847-7027 | Fax: (203) 847-1953  
[www.kingswayseniorhousing.org](http://www.kingswayseniorhousing.org)

December 17, 2021

To: Richard Foreman, Concierge Security Officer  
From: Jamie Kennedy, CEO

Richard,

I just want to let you know how much I appreciate you and the job you do for Kingsway. Since joining our team, you've made a huge impact on our community and have helped our residents feel safe and secure. I know your job isn't easy, but you do it very well and for that I am extremely thankful that you are with us. Let me know if there's ever anything I can do to help you.

As a small token of our appreciation, your year-end performance incentive has been processed and you should receive this via direct deposit on either Saturday or Monday. I hope this helps you during the Holidays.

Best,

A handwritten signature in black ink, appearing to read 'Jamie', is written over the printed name 'Jamie'.

Jamie